

GOVERNMENT CODE

TITLE 4. EXECUTIVE BRANCH

SUBTITLE B. LAW ENFORCEMENT AND PUBLIC PROTECTION

CHAPTER 423. USE OF UNMANNED AIRCRAFT

Sec. 423.001. DEFINITION. In this chapter, "image" means any capturing of sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property in this state or an individual located on that property.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.002. NONAPPLICABILITY. (a) It is lawful to capture an image using an unmanned aircraft in this state:

(1) for the purpose of professional or scholarly research and development or for another academic purpose by a person acting on behalf of an institution of higher education or a private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, including a person who:

(A) is a professor, employee, or student of the institution; or

(B) is under contract with or otherwise acting under the direction or on behalf of the institution;

(2) in airspace designated as a test site or range authorized by the Federal Aviation Administration for the purpose of integrating unmanned aircraft systems into the national airspace;

(3) as part of an operation, exercise, or mission of any branch of the United States military;

(4) if the image is captured by a satellite for the purposes of mapping;

(5) if the image is captured by or for an electric or natural gas utility or a telecommunications provider:

(A) for operations and maintenance of utility or telecommunications facilities for the purpose of maintaining

utility or telecommunications system reliability and integrity;

(B) for inspecting utility or telecommunications facilities to determine repair, maintenance, or replacement needs during and after construction of such facilities;

(C) for assessing vegetation growth for the purpose of maintaining clearances on utility or telecommunications easements; and

(D) for utility or telecommunications facility routing and siting for the purpose of providing utility or telecommunications service;

(6) with the consent of the individual who owns or lawfully occupies the real property captured in the image;

(7) pursuant to a valid search or arrest warrant;

(8) if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of a law enforcement authority:

(A) in immediate pursuit of a person law enforcement officers have reasonable suspicion or probable cause to suspect has committed an offense, not including misdemeanors or offenses punishable by a fine only;

(B) for the purpose of documenting a crime scene where an offense, not including misdemeanors or offenses punishable by a fine only, has been committed;

(C) for the purpose of investigating the scene of:

(i) a human fatality;

(ii) a motor vehicle accident causing death or serious bodily injury to a person; or

(iii) any motor vehicle accident on a state highway or federal interstate or highway;

(D) in connection with the search for a missing person;

(E) for the purpose of conducting a high-risk tactical operation that poses a threat to human life;

(F) of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities; or

(G) of real property or a person on real property that is within 25 miles of the United States border for the sole purpose of ensuring border security;

(9) if the image is captured by state or local law enforcement authorities, or a person who is under contract with or otherwise acting under the direction or on behalf of state authorities, for the purpose of:

(A) surveying the scene of a catastrophe or other damage to determine whether a state of emergency should be declared;

(B) preserving public safety, protecting property, or surveying damage or contamination during a lawfully declared state of emergency; or

(C) conducting routine air quality sampling and monitoring, as provided by state or local law;

(10) at the scene of a spill, or a suspected spill, of hazardous materials;

(11) for the purpose of fire suppression;

(12) for the purpose of rescuing a person whose life or well-being is in imminent danger;

(13) if the image is captured by a Texas licensed real estate broker in connection with the marketing, sale, or financing of real property, provided that no individual is identifiable in the image;

(14) from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception;

(15) of public real property or a person on that property;

(16) if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in this state;

(17) in connection with oil pipeline safety and rig

protection;

(18) in connection with port authority surveillance and security;

(19) if the image is captured by a registered professional land surveyor in connection with the practice of professional surveying, as those terms are defined by Section [1071.002](#), Occupations Code, provided that no individual is identifiable in the image;

(20) if the image is captured by a professional engineer licensed under Subchapter [G](#), Chapter [1001](#), Occupations Code, in connection with the practice of engineering, as defined by Section [1001.003](#), Occupations Code, provided that no individual is identifiable in the image; or

(21) if:

(A) the image is captured by an employee of an insurance company or of an affiliate of the company in connection with the underwriting of an insurance policy, or the rating or adjusting of an insurance claim, regarding real property or a structure on real property; and

(B) the operator of the unmanned aircraft is authorized by the Federal Aviation Administration to conduct operations within the airspace from which the image is captured.

(b) This chapter does not apply to the manufacture, assembly, distribution, or sale of an unmanned aircraft.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. [912](#)), Sec. 2, eff. September 1, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 360 (H.B. [2167](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 583 (S.B. [840](#)), Sec. 1, eff. September 1, 2017.

Sec. 423.003. OFFENSE: ILLEGAL USE OF UNMANNED AIRCRAFT TO CAPTURE IMAGE. (a) A person commits an offense if the person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image.

(b) An offense under this section is a Class C misdemeanor.

(c) It is a defense to prosecution under this section that the person destroyed the image:

(1) as soon as the person had knowledge that the image was captured in violation of this section; and

(2) without disclosing, displaying, or distributing the image to a third party.

(d) In this section, "intent" has the meaning assigned by Section 6.03, Penal Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.004. OFFENSE: POSSESSION, DISCLOSURE, DISPLAY, DISTRIBUTION, OR USE OF IMAGE. (a) A person commits an offense if the person:

(1) captures an image in violation of Section 423.003; and

(2) possesses, discloses, displays, distributes, or otherwise uses that image.

(b) An offense under this section for the possession of an image is a Class C misdemeanor. An offense under this section for the disclosure, display, distribution, or other use of an image is a Class B misdemeanor.

(c) Each image a person possesses, discloses, displays, distributes, or otherwise uses in violation of this section is a separate offense.

(d) It is a defense to prosecution under this section for the possession of an image that the person destroyed the image as soon as the person had knowledge that the image was captured in violation of Section 423.003.

(e) It is a defense to prosecution under this section for the disclosure, display, distribution, or other use of an image that the person stopped disclosing, displaying, distributing, or otherwise using the image as soon as the person had knowledge that the image was captured in violation of Section 423.003.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [149](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 423.0045. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER CORRECTIONAL FACILITY, DETENTION FACILITY, OR CRITICAL INFRASTRUCTURE FACILITY. (a) In this section:

(1) "Correctional facility" means:

(A) a confinement facility operated by or under contract with any division of the Texas Department of Criminal Justice;

(B) a municipal or county jail;

(C) a confinement facility operated by or under contract with the Federal Bureau of Prisons; or

(D) a secure correctional facility or secure detention facility, as defined by Section [51.02](#), Family Code.

(1-a) "Critical infrastructure facility" means:

(A) one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs that are posted on the property, are reasonably likely to come to the attention of intruders, and indicate that entry is forbidden:

(i) a petroleum or alumina refinery;

(ii) an electrical power generating facility, substation, switching station, or electrical control center;

(iii) a chemical, polymer, or rubber manufacturing facility;

(iv) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;

(v) a natural gas compressor station;

(vi) a liquid natural gas terminal or storage facility;

(vii) a telecommunications central switching office or any structure used as part of a system to provide wired or wireless telecommunications services;

(viii) a port, railroad switching yard, trucking terminal, or other freight transportation facility;

(ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

(x) a transmission facility used by a federally licensed radio or television station;

(xi) a steelmaking facility that uses an electric arc furnace to make steel;

(xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality; or

(xiii) a concentrated animal feeding operation, as defined by Section 26.048, Water Code; or

(B) if enclosed by a fence or other physical barrier obviously designed to exclude intruders:

(i) any portion of an aboveground oil, gas, or chemical pipeline;

(ii) an oil or gas drilling site;

(iii) a group of tanks used to store crude oil, such as a tank battery;

(iv) an oil, gas, or chemical production facility;

(v) an oil or gas wellhead; or

(vi) any oil and gas facility that has an active flare.

(2) "Dam" means any barrier, including any appurtenant structures, that is constructed for the purpose of permanently or temporarily impounding water.

(3) "Detention facility" means a facility operated by or under contract with United States Immigration and Customs Enforcement for the purpose of detaining aliens and placing them in removal proceedings.

(b) A person commits an offense if the person intentionally or knowingly:

(1) operates an unmanned aircraft over a correctional facility, detention facility, or critical infrastructure facility and the unmanned aircraft is not higher than 400 feet above ground

level;

(2) allows an unmanned aircraft to make contact with a correctional facility, detention facility, or critical infrastructure facility, including any person or object on the premises of or within the facility; or

(3) allows an unmanned aircraft to come within a distance of a correctional facility, detention facility, or critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

(c) This section does not apply to:

(1) conduct described by Subsection (b) that involves a correctional facility, detention facility, or critical infrastructure facility and is committed by:

(A) the federal government, the state, or a governmental entity;

(B) a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;

(C) a law enforcement agency;

(D) a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency; or

(E) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:

(i) each applicable Federal Aviation Administration rule, restriction, or exemption; and

(ii) all required Federal Aviation Administration authorizations; or

(2) conduct described by Subsection (b) that involves a critical infrastructure facility and is committed by:

(A) an owner or operator of the critical infrastructure facility;

(B) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the critical infrastructure facility;

(C) a person who has the prior written consent of

the owner or operator of the critical infrastructure facility; or

(D) the owner or occupant of the property on which the critical infrastructure facility is located or a person who has the prior written consent of the owner or occupant of that property.

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section 423.0046. Added by Acts 2015, 84th Leg., R.S., Ch. 1033 (H.B. 1481), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 824 (H.B. 1643), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 824 (H.B. 1643), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. 1424), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. 1424), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. 1424), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.011(a), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.011(b), eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 8.012, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 3, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1297 (H.B. 3557), Sec. 4, eff. September 1, 2019.

Sec. 423.0046. OFFENSE: OPERATION OF UNMANNED AIRCRAFT OVER SPORTS VENUE. (a) In this section, "sports venue" means an arena, automobile racetrack, coliseum, stadium, or other type of area or facility that:

(1) has a seating capacity of 30,000 or more people;

and

(2) is primarily used for one or more professional or amateur sports or athletics events.

(b) A person commits an offense if the person intentionally or knowingly operates an unmanned aircraft over a sports venue and the unmanned aircraft is not higher than 400 feet above ground level.

(c) This section does not apply to conduct described by Subsection (b) that is committed by:

(1) the federal government, the state, or a governmental entity;

(2) a person under contract with or otherwise acting under the direction or on behalf of the federal government, the state, or a governmental entity;

(3) a law enforcement agency;

(4) a person under contract with or otherwise acting under the direction or on behalf of a law enforcement agency;

(5) an operator of an unmanned aircraft that is being used for a commercial purpose, if the operation is conducted in compliance with:

(A) each applicable Federal Aviation Administration rule, restriction, or exemption; and

(B) all required Federal Aviation Administration authorizations;

(6) an owner or operator of the sports venue;

(7) a person under contract with or otherwise acting under the direction or on behalf of an owner or operator of the sports venue; or

(8) a person who has the prior written consent of the owner or operator of the sports venue.

(d) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section or Section [423.0045](#).

Added by Acts 2017, 85th Leg., R.S., Ch. 1010 (H.B. [1424](#)), Sec. 4, eff. September 1, 2017.

Sec. 423.005. ILLEGALLY OR INCIDENTALLY CAPTURED IMAGES NOT

SUBJECT TO DISCLOSURE. (a) Except as otherwise provided by Subsection (b), an image captured in violation of Section 423.003, or an image captured by an unmanned aircraft that was incidental to the lawful capturing of an image:

(1) may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding;

(2) is not subject to disclosure, inspection, or copying under Chapter 552; and

(3) is not subject to discovery, subpoena, or other means of legal compulsion for its release.

(b) An image described by Subsection (a) may be disclosed and used as evidence to prove a violation of this chapter and is subject to discovery, subpoena, or other means of legal compulsion for that purpose.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.006. CIVIL ACTION. (a) An owner or tenant of privately owned real property located in this state may bring against a person who, in violation of Section 423.003, captured an image of the property or the owner or tenant while on the property an action to:

(1) enjoin a violation or imminent violation of Section 423.003 or 423.004;

(2) recover a civil penalty of:

(A) \$5,000 for all images captured in a single episode in violation of Section 423.003; or

(B) \$10,000 for disclosure, display, distribution, or other use of any images captured in a single episode in violation of Section 423.004; or

(3) recover actual damages if the person who captured the image in violation of Section 423.003 discloses, displays, or distributes the image with malice.

(b) For purposes of recovering the civil penalty or actual damages under Subsection (a), all owners of a parcel of real property are considered to be a single owner and all tenants of a parcel of real property are considered to be a single tenant.

(c) In this section, "malice" has the meaning assigned by Section 41.001, Civil Practice and Remedies Code.

(d) In addition to any civil penalties authorized under this section, the court shall award court costs and reasonable attorney's fees to the prevailing party.

(e) Venue for an action under this section is governed by Chapter 15, Civil Practice and Remedies Code.

(f) An action brought under this section must be commenced within two years from the date the image was:

(1) captured in violation of Section 423.003; or

(2) initially disclosed, displayed, distributed, or otherwise used in violation of Section 423.004.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.007. RULES FOR USE BY LAW ENFORCEMENT. The Department of Public Safety shall adopt rules and guidelines for use of an unmanned aircraft by a law enforcement authority in this state.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. 912), Sec. 2, eff. September 1, 2013.

Sec. 423.008. REPORTING BY LAW ENFORCEMENT AGENCY. (a) Not earlier than January 1 and not later than January 15 of each odd-numbered year, each state law enforcement agency and each county or municipal law enforcement agency located in a county or municipality, as applicable, with a population greater than 150,000, that used or operated an unmanned aircraft during the preceding 24 months shall issue a written report to the governor, the lieutenant governor, and each member of the legislature and shall:

(1) retain the report for public viewing; and

(2) post the report on the law enforcement agency's publicly accessible website, if one exists.

(b) The report must include:

(1) the number of times an unmanned aircraft was used, organized by date, time, location, and the types of incidents and

types of justification for the use;

(2) the number of criminal investigations aided by the use of an unmanned aircraft and a description of how the unmanned aircraft aided each investigation;

(3) the number of times an unmanned aircraft was used for a law enforcement operation other than a criminal investigation, the dates and locations of those operations, and a description of how the unmanned aircraft aided each operation;

(4) the type of information collected on an individual, residence, property, or area that was not the subject of a law enforcement operation and the frequency of the collection of this information; and

(5) the total cost of acquiring, maintaining, repairing, and operating or otherwise using each unmanned aircraft for the preceding 24 months.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1390 (H.B. [912](#)), Sec. 2, eff. September 1, 2013.

Sec. 423.009. REGULATION OF UNMANNED AIRCRAFT BY POLITICAL SUBDIVISION. (a) In this section:

(1) "Political subdivision" includes a county, a joint board created under Section [22.074](#), Transportation Code, and a municipality.

(2) "Special event" means a festival, celebration, or other gathering that:

(A) involves:

(i) the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and

(ii) entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and

(B) requires a significant use or coordination of a political subdivision's services.

(b) Except as provided by Subsection (c), a political subdivision may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft.

(c) A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

(1) the use of an unmanned aircraft during a special event;

(2) the political subdivision's use of an unmanned aircraft; or

(3) the use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:

(A) applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and

(B) after providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

(d) An ordinance, order, or other similar measure that violates Subsection (b) is void and unenforceable.

Added by Acts 2017, 85th Leg., R.S., Ch. 824 (H.B. [1643](#)), Sec. 3, eff. September 1, 2017.